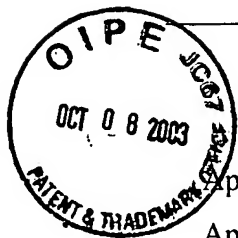


3742



AMENDMENT / RESPONSE TRANSMITTAL

#10
K Cooper
10/23/03

Applicant : Camm, et al.
App. No. : 10/005,186
Filed : December 4, 2001
For : HEAT-TREATING METHODS
AND SYSTEMS
Examiner : S. Fuqua
Art Unit : 3742

CERTIFICATE OF MAILING

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

October 6, 2003

(Date)

Che S. Chereskin

Che Swyden Chereskin, Ph.D., Reg. No. 41,466

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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OCT 10 2003

TECHNOLOGY CENTER R3700

Sir:

Transmitted herewith for filing in the above-identified application are the following enclosures:

- (X) Response in 3 pages.
- (X) The present application qualifies for small entity status under 37 C.F.R. § 1.27.
- (X) Return prepaid postcard.
- (X) Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Che S. Chereskin

Che Swyden Chereskin, Ph.D.

Registration No. 41,466

Agent of Record

Customer No. 20,995

(949) 760-0404



United States
FETHE24.001CP1 (47753-5cip)
Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION

RECEIVED

Serial Number: 10/005,186
Group Art Unit: 3742
Examiner: Shawntina T. Fuqua TECHNOLOGY CENTER R3700
Title: HEAT-TREATING METHODS AND SYSTEMS
Filing Date: December 4, 2001
Inventors: David Malcolm Camm; J. Kiefer Elliott
Agent's ref: FETHE24.001CP1 (47753-5cip)

October 2, 2003

U.S. Commissioner of Patents and Trademarks
U.S. Patent and Trademark Office
Washington, D.C. 20231
United States

Dear Sir:

RESPONSE

This is a response to the Office Action restriction requirement mailed September 9, 2003, the deadline for responding to which is **October 9, 2003**.

ELECTION

The Examiner has requested the applicant to elect one of patentably distinct Species A, B, C, D, E or F, and one of patentably distinct Subspecies G1, G2 and G3.

Applicant provisionally elects Species B with Subspecies G1, with traverse. The elected Species B with Subspecies G1 includes claims 1-65, 67-70, 72-88, 91-95, 97-116 and 118.

With respect to the traversal of the restriction requirement, M.P.E.P. § 803 provides that there are two necessary criteria for a proper restriction requirement: (1) the inventions must be independent or distinct as claimed; *and* (2) there must be a serious burden on the examiner if restriction is not required. M.P.E.P. § 803 further states that if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Applicant agrees with the Examiner's view that the various embodiments shown in Figures 1, 2, 5, 6, 7, 8, 2a, 6a and 7a are patentably distinct. Thus, Applicant does not disagree with the examiner's view that the first of the above two criteria is satisfied. However, Applicant respectfully submits that it would not be a serious burden to search and examine all claims of the present application, and therefore, Applicant respectfully submits that the second of the above two criteria is not satisfied.

M.P.E.P. § 803 states that a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in M.P.E.P. § 808.02. Applicant respectfully notes that the present Office Action does not demonstrate any such separate classification, separate status in the art, or different field of search. Applicant therefore respectfully submits that a serious burden has not been *prima facie* shown.

In addition, Applicant respectfully submits that there would not be any serious burden to search and examine all claims of the present application, in view of the number of generic claims presented. In this regard, the following claims are generic to all species: claims 1-5, 8-20, 23-29, 32-43, 47-49, 54-64, 69, 72-87, 93-94 and 97-104. As there is significant overlap between the latter list of generic claims, and the former list of elected claims in Species B and Subspecies G1, Applicant respectfully submits that it would not pose any

serious burden to the Examiner to search and examine all claims in the present application.

In conclusion, Applicant provisionally elects claims 1-65, 67-70, 72-88, 91-95, 97-116 and 118 (Species B and Subspecies G1). Applicant further respectfully submits that the restriction requirement is traversed for the reasons stated above, and respectfully requests that all claims in the present application be searched and examined.

No fees are believed to be due for the present Response, however, would any fees be due, please charge them to our Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON &
BEAR, LLP

Dated: Oct. 6, 2003

By: Che S. Chereskin
Che Swyden Chereskin
Registration No. 41,466
Agent of Record
Customer No. 20,995

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